

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

IN RE: ROBERT TAULER §
CIVIL ACTION NO. 1:21-mc-00675-RP §
§

OPPOSED MOTION TO QUASH OF AUSTIN FEDERAL COURT ATTORNEY
ADMISSIONS COMMITTEE MEMBERS

TO THE HONORABLE ROBERT PITMAN, UNITED STATES DISTRICT JUDGE:

Gary Zausmer, Kevin Cole, Michael Marin, Viktor Olavson, Lisa A. Paulson, Archie Carl Pierce, and David Whittlesey (collectively, “Austin Federal Court Attorney Admissions Committee Members,” “Committee”, or “Members”) file this Motion to Quash Subpoenas to Testify emailed by Robert Tauler (“Tauler”) to the undersigned on September 1, 2021 concerning an October 15, 2021 hearing set by the Court in the captioned matter.

OVERVIEW

Tauler has opted to engage in a harassing, if not abusive, process directed toward the Austin Federal Court Attorney Admissions Committee Members. This process culminated in his issuing unilateral Subpoenas for the Members to attend, and provide testimony at, the Court's October 15, 2021 hearing to determine Tauler's application for admission to practice in the Western District of Texas. However, the Austin Federal Court Attorney Admissions Committee Members would not be providing any relevant, material, non-confidential, unprivileged testimony at the hearing. The Subpoenas should be quashed.

The Austin Federal Court Attorney Admissions Committee Members have discharged their obligations by making a recommendation concerning Tauler's application for admission. The Committee concluded its work on February 16, 2021 when it informed Tauler of its

recommendation and his right to seek Court review under the Local Rules of the Committee's recommendation.

Tauler's application is now solely before this Court for consideration and determination. It is no longer pending before the Committee. The Committee simply makes a recommendation; the Court makes the determination whether to approve applicants who are not recommended for admission by the Committee. *See* Local Rule AT-1. Accordingly, any testimony from the Committee Members concerning Tauler's application to the Court would be irrelevant, immaterial, subject to confidentiality and privilege protections, and unwarranted..

BACKGROUND: CURRENT PROCEEDINGS

On September 1, 2021, Tauler served the undersigned with Subpoenas directed to the individual Austin Federal Court Attorney Admissions Committee Members to appear at the October 15, 2021 hearing. Tauler subpoenaed each of the Austin Federal Court Attorney Admissions Committee Members to provide testimony at this proceeding. It is uncertain whether the Court is anticipating or requiring any evidentiary matters to be addressed at this proceeding, or whether the Court is expecting or requiring evidence at all. Irrespective whether this is an evidentiary proceeding, no evidence would be proper from or required of the Members, who are non-parties.

These Subpoenas to provide testimony follow on the heels of Tauler's unilaterally serving the Members with Subpoenas to produce documents on September 3, 2021, to which each of the Members filed and served Objections [Dkt. Nos. 5 – Dkt. Nos. 11]. In response to the Objections, Tauler threatened to file a motion to compel responses – but did not. In accordance with the Objections, the Members did not appear at the unilaterally noticed time or produce documents.

COMMITTEE CONSIDERATION: MWK RECRUITING/JOWERS LAWSUIT

The Austin Federal Court Attorney Admissions Committee Members considered Tauler's application and determined not to recommend Tauler for admission to the Western District of Texas. The Committee Chair notified Tauler of the Committee's recommendation in February 2021. Notice was correspondingly provided to the Court.

Tauler availed himself of the opportunity for Court review, which the Committee Chair informed Tauler was his right under the applicable Local Rules.

With this backdrop, Tauler, in the context of a pending lawsuit, Civil Action No. 1:18-cv-00444-RP; *MWK Recruiting, Inc. v. Evan P. Jowers, et al*; pending in the Western District of Texas, Austin Division, served on Committee Chair Zausmer a Subpoena for Committee records. Mr. Zausmer served objections in response that set forth the same grounds articulated in this instant Motion to Quash.

As of February 16, 2021, the Committee ceased its consideration of Tauler's application – at which time Tauler was notified of the Committee's recommendation. Tauler's application is now singularly before the Court. The Committee has no role at this juncture – and has had no role since the Committee Chair notified Tauler of the Committee's recommendation and corresponded with the Court accordingly. The instant proceedings are solely for Court determination.

GROUND FOR MOTION TO QUASH

1. The Committee Members would not be in a position to offer any testimony that is relevant or material to the Court's determination.
2. The Committee Members' testimony would be outside the scope and boundaries of the Local Rules and process.

3. The Committee, by making its recommendation and communicating its recommendation to Tauler on February 16, 2021, has concluded and discharged its role in connection with Tauler's application for admission.

4. This matter is now singularly before the Court, and it is strictly now for the Court to review Tauler's application.

5. The Committee's proceedings are confidential and privileged, including under the deliberative process privilege. The Committee serves and acts as an adjunct of the Court. Its Members should not be subjected to the Subpoena process or required to submit testimony about confidential and privileged Committee proceedings.

6. Any testimony that any of the Members would provide would be subject to and protected by the foregoing restrictions – and will not be relevant or material in the Court's review process. The Committee, in its February 16, 2021 correspondence, notified Tauler of its recommendation and the grounds for its recommendation. Nothing further is required or warranted from the Committee Members at this point in time.

7. The Committee discharged its responsibilities; its Members should not be subjected to harassment and abuse by Tauler in connection with its concluded service.

PRAYER

The Austin Federal Court Attorney Admissions Committee Members, specifically Gary Zausmer, Kevin Cole, Michael Marin, Viktor Olavson, Lisa A. Paulson, Archie Carl Pierce, and David Whittlesey, respectfully urge the Court to Quash the Subpoenas issued to them and to accord them such other and further relief to which they may show themselves justly entitled.

Respectfully submitted,



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PIERCE, DAVID WHITTLESEY, KEVIN COLE,
AND VIKTOR OLAVSON, AS MEMBERS OF
THE ADMISSIONS COMMITTEE OF THE
WESTERN DISTRICT OF TEXAS, AUSTIN
DIVISION

CERTIFICATE OF CONFERENCE

I conferred with Mr. Tauler by email on September 15, 2021. *See* Exhibit A. Tauler does not agree to the relief requested in this Motion, specifically the quashing or withdrawal of the Subpoenas issued to the Austin Federal Court Attorney Admissions Committee Members, and this Motion is apparently opposed.

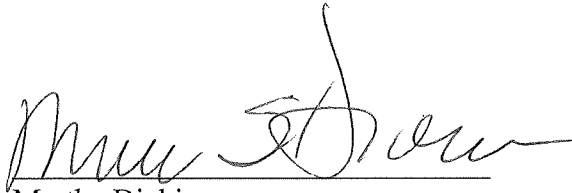


Martha Dickie

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document has been sent via courts electronic filing system and/or e-mail to the parties listed below, on this 17th day of September 2021

Robert Tauler
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